

# INDIANA BOARD OF TAX REVIEW

## Final Determination Findings and Conclusions Lake County

**Petition #:** 45-013-02-1-5-00007  
**Petitioners:** Ronald L. & Kathy A. Fisher  
**Respondent:** Department of Local Government Finance  
**Parcel #:** 005-30-24-0054-0003  
**Assessment Year:** 2002

The Indiana Board of Tax Review (the "Board") issues this determination in the above matter, and finds and concludes as follows:

### Procedural History

1. An informal hearing as described in Ind. Code § 6-1.1-4-33 was held between the Petitioners and the Respondent on October 31, 2003. The Department of Local Government Finance (DLGF) determined that the Petitioners' property tax assessment for the subject property should be lowered to \$108,100 and notified the Petitioners on March 25, 2004.
2. The Petitioners filed a Form 139L on April 1, 2004.
3. The Board issued a notice of hearing to the parties dated June 24, 2004.
4. A hearing was held on August 12, 2004, in Crown Point, Indiana before Special Master Barbara Wiggins.

### Facts

5. The subject property is located at 9130 W. 133<sup>rd</sup> Avenue, Cedar Lake, Hanover Township.
6. The subject property is a single-family home on 0.223 acres of land.
7. The Special Master did not conduct an on-site inspection of the property.
8. Assessed Value of subject property as determined by the DLGF:  
Land \$45,900 Improvements \$62,200 Total \$108,100
9. Assessed Value requested by Petitioner during hearing:  
Land \$16,300 Improvements \$62,200 Total \$78,500
10. The following persons were present and sworn in at the hearing:

For Petitioner: Ronald L. and Kathy A. Fisher, Taxpayers

For Respondent: Sharon Elliott, Cole-Layer-Trumble, representing the DLGF

## **Issue**

11. Summary of Petitioner's contentions in support of alleged error in assessment:
  - a. The property has been assessed with an incorrect neighborhood code, for lake property. The property record cards (PRCs) for several other parcels in the neighborhood show that the base rate for the land should be \$225 per front foot. *Fishers' testimony; Petitioner Exhibit 1.*
  - b. The Petitioners presented a Form 133 petition wherein the Hanover Township assessor had corrected the neighborhood for 2004 and requested that the prior years of 2002 and 2003 be changed also. *Fishers' testimony; Petitioner Exhibit 1.*
12. Summary of Respondent's contentions in support of assessment:
  - a. The Respondent presented a parcel map to show how the neighborhoods are determined. *Elliott testimony; Respondent Exhibit 7*
  - b. The Respondent presented comparable sales and an appraisal of the subject property as confirmation of the assessed value. *Elliott testimony; Respondent Exhibits 4, 5- 7.*

## **Record**

13. The official record for this matter is made up of the following:
  - a. The Petition and all subsequent pre-hearing submissions by either party.
  - b. Exhibits:
    - Petitioner Exhibit 1: Form 133 petition for 2002 and 2003
    - Petitioner Exhibit 2: 2002 PRC prior to 2004 Appeal
    - Petitioner Exhibit 3: PRC with 2004 values
    - Petitioner Exhibit 4: PRC for 9125 W. 133<sup>rd</sup>
    - Petitioner Exhibit 5: PRC for 9131 W. 133<sup>rd</sup>
    - Petitioner Exhibit 6: PRC for 13310 W. 133<sup>rd</sup>
    - Petitioner Exhibit 7: PRC for 13315 W. 133<sup>rd</sup>
    - Petitioner Exhibit 8: PRC for 13316 W. 133<sup>rd</sup>
  
    - Respondent Exhibit 1: Form 139L Petition
    - Respondent Exhibit 2: Subject PRC
    - Respondent Exhibit 3: Photograph of subject property
    - Respondent Exhibit 4: Top 20 Comparable properties with PRCs and photographs for four of them
    - Respondent Exhibit 5: Area PRCs and map
    - Respondent Exhibit 6: Subject property appraisal
    - Respondent Exhibit 7: Neighborhood map
  - c. These Findings and Conclusions.

## **Analysis**

14. The most applicable governing law is:
  - a. The Petitioner must submit 'probative evidence' that adequately demonstrates the alleged error. Mere allegations, unsupported by factual evidence, will not be

- considered sufficient to establish an alleged error. *Whitley Products, Inc. v. State Bd. of Tax Comm'rs*, 704 N.E.2d 1113 (Ind. Tax 1998) and *Herb v. State Bd. of Tax Comm'rs*, 656 N.E.2d 1230 (Ind. Tax 1998).
- b. The Petitioner must sufficiently explain the connection between the evidence and Petitioner's assertions in order for it to be considered material to the facts. Conclusory statements are of no value to the State in its evaluation of the evidence. *Heart City Chrysler v. State Bd. of Tax Comm'rs*, 714 N.E.2d 329 (Ind. Tax 1999).
  - c. Essentially, the Petitioner must do two things: (1) prove that the assessment is incorrect; and (2) prove that the specific assessment he seeks is correct. In addition to demonstrating that the assessment is invalid, the Petitioner also bears the burden of presenting sufficient probative evidence to show what assessment is correct. *State Bd. of Tax Comm'rs v. Indianapolis Racquet Club, Inc.*, 743 N.E.2d 247, 253 (Ind. 2001) and *Blackbird Farms Apartments, LP v. DLGF*, 765 N.E.2d 711 (Ind. Tax 2002).
  - d. Once the Petitioner establishes a prima facie case, the burden shifts to the assessing official to rebut the Petitioner's evidence. The assessing official must offer evidence that impeaches or rebuts the Petitioner's evidence. *American United Life Ins. Co. v. Maley*, 803 N.E.2d 276 (Ind. Tax Ct. 2004).
15. Sufficient evidence was presented for a reduction in the assessed value. This conclusion was arrived at because:
- a. Both parties presented market evidence.
  - b. The Petitioners presented PRCs for neighboring properties on the same street as the property under appeal. These comparable properties were assessed with base rates below that of the Petitioners' property. *Petitioner Exhibits 4-8*.
  - c. Additionally, the Respondent presented an appraisal of the property indicating a total value of \$72,000 as of June 13, 1995. The valuation date for the 2002 assessment is January 1, 1999. *2002 Real Property Assessment Manual, page 12*.
  - d. The Respondent's own evidence therefore supports the Petitioners' contention of total assessed value, \$78,500.
  - e. The Respondent also presented a list of the "Top 20 Comparables." However, these purported comparable properties have an average time adjusted sales price of \$84,593, well below the subject's current assessed value of \$108,100. None of the purported comparable properties appeared to be in proximity of the subject; the four most comparable properties chosen by the Respondent were all on different streets and all had lower assessed values than the property under appeal. *Respondent Exhibits 4-5*.

### **Conclusion**

16. The market evidence presented by both parties supports a reduction in the total assessed value of the property. The Board finds for the Petitioners.

### **Final Determination**

In accordance with the above findings and conclusions, the Indiana Board of Tax Review now determines that the total assessed value should be \$78,500.

ISSUED: \_\_\_\_\_

---

Commissioner,  
Indiana Board of Tax Review

### **IMPORTANT NOTICE**

#### **- APPEAL RIGHTS -**

**You may petition for judicial review of this final determination pursuant to the provisions of Indiana Code § 6-1.1-15-5. The action shall be taken to the Indiana Tax Court under Indiana Code § 4-21.5-5. To initiate a proceeding for judicial review you must take the action required within forty-five (45) days of the date of this notice.**